IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS BEAUMONT DIVISION

GEORGE HARRY DAVIS, JR. §

VS.

§ CIVIL ACTION NO. 1:05cv419

JOE D. DRIVER §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

George Harry Davis, Jr. proceeding *pro se*, filed the above-styled lawsuit seeking habeas relief pursuant to 28 U.S.C. § 2241 and asserting a claim under the Privacy Act, 5 U.S.C. § 552(a), *et seq.*. The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court. The magistrate judge has submitted a Report and Recommendation recommending the petition be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections. After careful consideration, the court is of the opinion the objections are without merit. Petitioner is not entitled to habeas relief because his grounds for review are not based on a retroactively applicable Supreme Court decision which demonstrates he was convicted of a nonexistent offense. *See Reyes-Requena v. United States*, 243 F.3d 893 (5th Cir. 2004). Further, he is not entitled to have the Bureau of Prisons correct information contained in his pre-sentence report because such relief is not available under the Privacy Act. *See Sellers v. Bureau of Prisons*, 959 F.2d 307 (D.C. Cir. 1992).

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is

ADOPTED. A final judgment shall be entered denying the petition.

So ORDERED and SIGNED this 2 day of August, 2007.

Ron Clark, United States District Judge

Pm Clark